

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4611, 4623, 4624
and 4575 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

PRAVINCHANDRA K GANJAWALA

Versus

A M C

Appearance:

MR RM VIN for Petitioners
MR PRASHANT G DESAI for Respondent No. 1
NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH
Date of decision: 26/07/1999

ORAL JUDGEMENT

In these petitions under Article 226 of the Constitution, the petitioners have challenged the notices issued by the Ahmedabad Municipal Corporation under Section 260 of the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter referred to as "the Act") on the ground that in each case the disputed construction is in violation of the building regulations

pertaining to the Floor Space Index (FSI). It appears that while filing the petitions in 1985 itself the petitioners had submitted that the FSI limit was likely to be revised. The petitions were admitted and interim stay was granted against demolition of the disputed construction.

2. When the petitions have reached hearing today, the learned counsel for the petitioners have submitted, and the learned counsel for the respondent-Corporation do not dispute, that the FSI limit has been revised upwards from what it was when the impugned notices were issued in the year 1985. Earlier the FSI limit was one and the same is now revised to 1.8 subject to certain riders and clarifications. In view of the order that this Court proposes to pass, it is not necessary to refer to the detailed scheme of the FSI Rules.

3. In the facts and circumstances of the case, these petitions are disposed of with liberty to the petitioners to make fresh representations to the respondent-Corporation for regularizing the disputed construction which is in their occupation in light of the revised FSI Regulations/bye-laws. Such representations shall be made by the respective parties/persons in occupation of the premises within two months from today and upon receipt of the representations, the respondent-Corporation shall consider and decide the same within four months from the date of receipt of the representation.

Till the respective representations are decided and for a period of one month from the date of communication of its decision to the concerned persons making the representations, the Corporation shall not demolish the disputed construction.

4. The petitions are accordingly disposed of in terms of the aforesaid directions with no order as to costs.

July 26, 1999 (M.S. Shah, J.)

sundar/-